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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/590,170

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David Davies

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EXAMINER

FISHER, PAUL R

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/590,170

Applicant(s)

DAVIES, DAVID

Examiner

PAUL FISHER

Art Unit

3689

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 November 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 3-15 and 20-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-15 and 20-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 August 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-940)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Amendment received on November 8, 2010 has been acknowledged. Claims 2 and 16-19 have been canceled. Claims 20-26 have been added. Claims 1, 3-15 and 20-26 are currently pending and have been considered below.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claim 22 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In claim 22, the newly recited limitation of "wherein said flexible bag is located in a dispenser having capacity for only a single flexible bag at a time", appears to be new matter. The Examiner can find now support in the applicant's originally filed specification that would show that the dispenser can hold only one bag, that is to say the specification appears broad enough to allow for multiple bags to be held and would not have reasonably conveyed to one of skill that it is required to hold only a single bag at a time, as such this is considered new matter.
4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 23-26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
6. In claim 23, the newly recited limitation of "bag is formed with a surface variation to maintain a pocket within...", renders the claim indefinite. It is unclear what the applicant is attempting to claim since it appears that any bag would have a surface variation to maintain a pocket. It is unclear if the applicant has intended this limitation to mean merely a change in the surface or a funnel shape. Since a funnel shape has not been claimed the broadest reasonable interpretation, would be a change in the surface that maintains a pocket. For purposes of examination the Examiner is interpreting the claim to read that since it is a flexible bag the void between the two pieces of plastic is the pocket and the seals are acting as the surface variation.
7. Claims 24-26, depend from claim 23 and have been rejected upon the same rationale.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. **Claims 1,3-6, 11 and 22-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over J.L. Kastamo et al. (3,343,719) hereafter Kastamo, in view of Finley et al. (3,401,043) hereafter Finley.**

As per claim 1, Kastamo discloses a method of distributing flexible bags filled with a beverage or liquid food product under sterile conditions to a consumer of said beverage or liquid food product in return for payment (Col. 2, lines 13-33; discloses that the invention is directed toward a method of delivering liquid goods, in a sanitary environment. Col. 3, lines 28-65; disclose that this process includes flexible bags and they are delivered to their customers) and comprising the following steps of:

a) filling said flexible bags through a spout or tap forming part of each flexible bag and acting as both a filling inlet and dispensing outlet and thereby avoiding residue from a sealing process, said flexible bags having been previously sealed in a manufacturing process (Col. 4, line 38 through Col. 5, line 12; discloses that the flexible bags are filled through a spout or tap forming part of the flexible bag thus avoiding residue from a sealing process, the bags being sealed in the manufacturing process);

b) locating said flexible bags, filled with said beverage or liquid food product, in a bulk transport container having a capacity for a plurality of flexible bags, the bulk transport container not used for dispensing the product to an end consumer (Col. 3, lines 66 through Col. 4, line 12 and Col. 5, lines 44-51; disclose that flexible bags are filled with liquid and transported to the customer therefore they are located in the transport vehicle which is a bulk transport container which holds a plurality of flexible bags);

c) transporting, by a commercial distributor, of the bulk transport container, in which the filled flexible bags are located, to a consumer of said beverage or liquid food product (Col. 3, lines 66 through Col. 4, line 12 and Col. 5, lines 44-51; disclose that a truck is used to deliver the flexible bags containing liquid to the customer or consumer);

d) unloading a required quantity of flexible bags filled with beverage or liquid food product for delivery to the consumer (Col. 3, lines 66 through Col. 4, line 12 and Col. 5, lines 44-51; discloses that the housewife or consumer receives the flexible bag containing the liquid, therefore the flexible bag is unloaded from the delivery truck); and

e) delivering each flexible bag for dispensing the beverage or liquid food product container in the flexible bag to be consumed by the end consumer, and wherein, through each step, hazard and critical control points during distribution and dispensing are minimized so that beverage or food liquid product is delivered to the end consumer for consumption without taint or adverse effect (Col. 3, lines 66 through Col. 4, line 12 and Col. 5, lines 44-51; discloses that the housewife or consumer receives the flexible bag containing the liquid to be consumed. Col. 2, lines 13-33; discloses that the entire process is done at a very high degree of sanitation thus minimizing the hazard and critical control points during distribution and dispensing).

Kastamo, fails to explicitly state that the filling is occurring under sterile conditions.

Finley, which like Kastamo talks about delivery of goods in flexible plastic bags, teaches it is old and well known to fill those bags under sterile conditions (Col. 1, lines 11-65; teach that when delivering items it is desirable if not required to fill and store

those items in sterile conditions. Finley teaches using a method of aseptic packaging to fill the plastic bags in sterile conditions to ensure quality of product and to abide by law. It would have been obvious to use such filling processes in the method of Kastamo to ensure the liquid is sterile and does not spoil since both Finley and Kastamo deal with similar products such as ice cream and milk it would have been obvious to treat the product in Kastamo in a similar manner to ensure the product is delivered with out issue to the consumer).

Therefore, from this teaching of Finley, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include in the process of delivering liquid food products in plastic bags provided by Kastamo, the process of filling under sterile conditions as taught by Finley, to prevent spoilage and to ensure that the consumer receives the highest quality product. Since both Finley and Kastamo deal with similar products such as ice cream and milk it would have been obvious to treat the product in Kastamo in a similar manner to ensure the product is delivered with out issue to the consumer. Further since Kastamo discloses performing the delivery in sanitary conditions it would have been obvious to fill the bags under sterile conditions to maintain that sanitary environment discussed in Kastamo.

As per claim 3, the combination of Kastamo and Finley teaches the above-enclosed invention, Kastamo further discloses wherein the commercial distributor fills the flexible bags (Col. 4, line 74 through Col. 5, line 12, Col.5 lines 44-51; discloses that the bags are filled and then distributed thus the commercial distributor fills the bags. Col. 3, lines 51-65; discloses that the dairy fills the bags).

As per claim 4, the combination of Kastamo and Finley teaches the above-enclosed invention, Kastamo fails to explicitly disclose wherein said beverage contained in a flexible bag is drinking water.

However, Kastamo states that other liquid foods and beverages would also benefit from this method and system (Col. 2, lines 25-32; states that the same ideas could be applied to other liquid products, thus it would have been obvious that the beverage is water).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made that the system and method provided by the combination of Kastamo and Finley, could be used with water, since as stated in Kastamo the invention could be used with other liquid products, obviously including water. Further it is old and well known to deliver water to customers using bottles, it would have been obvious to use the flexible bags found in Kastamo for the same reasons set forth in Kastamo, increased sanitation and reduced overall cost.

As per claim 5, the combination of Kastamo and Finley teaches the above-enclosed invention, Kastamo further discloses wherein said distribution method is "one way" without recovery of flexible bags for re-use (Col. 1, line 45 through Col. 2, line 32; disclose that the invention delivers the bags to the customers and the bags relieve the problem of the bottle in that they do not require re-use or recovery, thus the method is "one way").

As per claim 6, the combination of Kastamo and Finley teaches the above-enclosed invention, Kastamo fails to explicitly disclose wherein said commercial

distributor positions said flexible bag containing water in a dispenser for delivery of the water to the end consumer.

However, Kastamo discloses that the flexible bags are delivered to the customers and that the customer positions the bag (Col. 5, lines 44-51 and Col. 11, lines 22-36; disclose that the bag is delivered and installed, it would have been obvious that the delivery person would install or position the bag in the dispenser as a part of the customer service. For example as part of the original delivery showing the customer how the dispenser works and how the bag is to be placed in the dispenser. Further it would have been obvious as part of the customer service to install the bag for the customer if they have difficulty working the equipment, for example if the customer is impaired or not capable of working the dispenser).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system and method provided by the combination of Kastamo and Finley, so that the commercial distributor positions said flexible bag for the end consumer, as a part of the customer service. For example as part of the original delivery showing the customer how the dispenser works and how the bag is to be placed in the dispenser. Further it would have been obvious as part of the customer service to install the bag for the customer if they have difficulty working the equipment, for example if the customer is impaired or not capable of working the dispenser.

As per claim 11, the combination of Kastamo and Finley teaches the above-enclosed invention, Kastamo further discloses wherein the flexible bag incorporates at

least one handle (Col. 11, lines 5-21; disclose that the bag includes at least one handle).

As per claim 22, the combination of Kastamo and Finley teaches the above-enclosed invention, Kastamo further discloses wherein said flexible bag is located in a dispenser (Col. 3, line 66 through Col. 4, line 12; discloses that the flexible bag is located in a dispenser).

While Kastamo is not explicit that the dispenser has the capacity for only a single flexible bag at a time, it would have been obvious to one having ordinary skill that the bag could vary in size and such could take up more or less volume in the dispenser. As such it would have been obvious given the different volumes of bags the dispenser could have held only one bag at a time. Further the size of the bag or the amount of bags held in the dispenser is merely a design choice it would have been obvious that the dispenser could have been configured to hold a single bag and that this would not have changed the method of distribution. Meaning filling the bag, transporting the bag, unloading the bag and delivering the bag would all be carried out exactly the same way regardless of the size of the bags or the size of the dispenser, the dispenser is merely a means of holding the bag once it is delivered. As such it would have been obvious to one having ordinary skill reading the Kastamo reference to have the dispenser hold only a single bag since it would not change how the method is carried out.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method and system provided by the combination of Kastamo and Finley, to allow the dispenser to hold only one flexible bag

at a time. Since the size of the bag or the amount of bags held in the dispenser is merely a design choice it would have been obvious that the dispenser could have been configured to hold a single bag and that this would not have changed the method of distribution. Meaning filling the bag, transporting the bag, unloading the bag and delivering the bag would all be carried out exactly the same way regardless of the size of the bags or the size of the dispenser, the dispenser is merely a means of holding the bag once it is delivered. As such it would have been obvious to one having ordinary skill reading the Kastamo reference to have the dispenser hold only a single bag since it would not change how the method is carried out.

As per claim 23, the combination of Kastamo and Finley teaches the above-enclosed invention, Kastamo further discloses wherein at least one of the flexible bags is a collapsible bag and wherein the base of said bag is formed with a surface variation to maintain a pocket within said collapsible bag and facilitate drainage of liquid from said bag during dispensing (Col. 4, lines 38-62; disclose that the flexible bags are formed with a surface variation to maintain a pocket within said collapsible bag and this facilitates the drainage of liquid from the bag during dispensing since the bags are flexible they can be filled and collapsible when empty, the surface variation is where the edges are heat-sealed thus causing a variation in the surface of bag).

As per claim 24, the combination of Kastamo and Finley teaches the above-enclosed invention, Kastamo further discloses wherein said surface variation is a contour (Col. 4, lines 38-62; disclose that the flexible bags are formed with a surface

variation to maintain a pocket within as seen in Fig. 2 the seal creates a contour or curving shape).

As per claim 25, the combination of Kastamo and Finley teaches the above-enclosed invention, Kastamo further discloses wherein said surface variation includes creases forming peaks and valleys to facilitate drainage of liquid product from said bag during dispensing (Col. 4, lines 38-62; disclose that the flexible bags are formed with a surface variation to maintain a pocket within said collapsible bag and this facilitates the drainage of liquid from the bag during dispensing. Fig. 2 the seal creates a contour or curving shape which includes creases which form peaks and valleys in the bag. Further it would have been obvious that as the bag drains creases are formed which cause peaks and valleys to facilitate drainage).

As per claim 26, the combination of Kastamo and Finley teaches the above-enclosed invention, Finley further teaches wherein at least part of said collapsible bag is an oxygen barrier (Col. 1, lines 40-49; teach that the product remains in a sterile state thus the bag acts as an oxygen barrier otherwise the bag would not be able to keep the contents sterile).

10. **Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over J.L. Kastamo et al. (3,343,719) hereafter Kastamo, in view of Finley et al. (3,401,043) hereafter Finley, further in view of Glacier Mountain: www.glacermountain.com (Dec. 15, 2003) hereafter Glacier Mountain.**

As per claim 7, the combination of Kastamo and Finley teaches the above-enclosed invention, Kastamo further discloses wherein said commercial distributor

supplies the dispenser (Col. 3, lines 43-50; disclose that dispensers or substantially rigid containers are provided at the customers location).

Kastamo, however fails to explicitly disclose that the dispenser is supplied and maintained in return for payment.

Glacier mountain, which talks about water delivery, teaches that it is old and well Known to supply and maintain a water dispenser in return for payment (Page 1; teaches that Glacier Mountain sell or rent coolers or dispensers to their customers and also maintain these coolers as part of their Stay Pure Program in which the cooler is serviced regularly to ensure that the customer receives the best possible product, since Kastamo includes a dispenser it would have been obvious to rent these dispensers and maintain them as shown in Glacier Mountain as a part of customer service).

Therefore, from this teaching of Glacier Mountain, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify system and method provided by the combination of Kastamo and Finley, to include the supply and maintenance of dispensers for payment as taught in Glacier Mountain, for the purpose of providing the customer additional services and enticing them to purchase the distributors products. In this case the distributor rents the dispenser and maintains it to ensure that the customer is receiving the best possible product, which in turn would create more loyal customers.

11. Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over J.L. Kastamo et al. (3,343,719) hereafter Kastamo, in view of Finley et al.

(3,401,043) hereafter Finley, further in view of Chep: www.chep.com (June 3, 2002) hereafter Chep.

As per claim 8, the combination of Kastamo and Finley teaches the above-enclosed invention, Kastamo fails to explicitly disclose wherein said bulk transport container is a variable capacity adaptive to varying quantities of flexible bags in accordance with consumer demand.

Chep, which talks about crates used in bulk transport of products, teaches using a bulk transport container that has variable capacity adaptive to varying quantities of products (Page 1; teaches a container which is collapsible to reduce storage and transport space, thus the container is variable capacity depending on the requirements, the applicant on page 8 of the originally filed specification states that similar products from Chep can be used in conjunction with the method, when used in Kastamo it would have been obvious that using these products would save on storage and transport space as stated in Chep, these products help to achieve a 50% storage savings and help ensure the products reach customers in the best possible condition, from this it would have been obvious to use such a container in Kastamo to ensure that the customer receives the product in the best possible condition).

Therefore, from this teaching of Chep, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify system and method provided by the combination of Kastamo and Finley, with the use of collapsible contains as taught by Chep, for the purposes of reducing storage and transportation space, further Chep shows that these containers would have been an obvious choice by one of

ordinary skill in the art since they help ensure the products reach customers in the best possible condition, while still reducing storage space as needed.

As per claim 9, the combination of Kastamo, Finley and Chep discloses the above-enclosed invention, Chep further teaches wherein said bulk transport container is of a cubic design having a smooth wall and base construction thereby reducing risk of damage to, and contamination of, said flexible bags (Page 1; teaches that the bulk container or crates are cubic design having smooth walls to reduce product damage, thus reducing contamination of the products).

As per claim 10, the combination of Kastamo, Finley and Chep discloses the above-enclosed invention, Chep further teaches wherein said bulk transport container is made of a polymer suitable for use in food grade environments (Page 1; teaches that the bulk container or crate is made of a plastic that helps ensure that the product reaches the consumer in the best possible conditions, which include hygiene thus the container is suitable for use in a food grade environment).

12. Claims 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kastamo et al. (3,343,719) hereafter Kastamo, in view of Finley et al. (3,401,043) hereafter Finley, further in view of Giuliano et al. (US 2005/0059952 A1) hereafter Giuliano.

As per claim 12, the combination of Kastamo and Finley teaches the above-enclosed invention, Kastamo further discloses wherein said flexible bag is positioned in said dispenser by said at least one handle (Col. 11, lines 5-36; disclose that the bag includes a handle and that the bag is lowered into the dispenser, from this it would have

been obvious that the bag is positioned using the handle to lower the bag into the dispenser).

The combination fails to explicitly disclose where the bag is hung from the handle.

Giuliano, which like Kastamo and Finley talks about plastic bags filled with fluid, teaches it is known to hang the bag from the handle (Abstract; teaches that the bag has a handle which is used for hanging the bag. From this since Kastamo has a handle it would have been obvious to hang the bag from this handle since it is known to do so and would be an easy way to position the bag in the dispenser).

Therefore, from this teaching of Giuliano, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method and system provided by the combination of Kastamo and Finley, with hanging the bag on the provided handle as taught by Giuliano, since Kastamo has a handle it would have been obvious to hang the bag from this handle since it is known to do so and would be an easy way to position the bag in the dispenser.

As per claim 13, the combination of Kastamo, Finley and Giuliano teaches the above-enclosed invention, Kastamo further discloses wherein said flexible bag, when positioned in said dispenser, allows substantially complete drainage of the liquid contents from said flexible bag (Col. 11, lines 5-36; disclose that the bag is lowered into the dispenser, upon installation into the dispenser the dispenser allows for substantially complete drainage of the liquid contents of the bag).

As per claim 14, the combination of Kastamo, Finley and Giuliano teaches the above-enclosed invention, Kastamo further discloses wherein said dispenser has a housing having a base, the base being angled with respect to a vertical axis of the housing, to allow substantially complete drainage of the liquid contents from said flexible bag (Col. 11, lines 5-36; disclose that the bag is lowered into the dispenser, upon installation into the dispenser at an angle with respect to the vertical axis, the dispenser allows for substantially complete drainage of the liquid contents of the bag).

As per claim 15, the combination of Kastamo, Finley and Giuliano teaches the above-enclosed invention, Kastamo further discloses wherein said housing of said dispenser has an inner wall and a shield is located between said flexible bag and said inner wall of said housing to protect a lower portion of the flexible bag from damage (Figure 3, Col. 3, lines 58-65; disclose that the flexible plastic bag is deposited into the paper bag which is then placed in the dispenser, the paper bag is to act as a shield to protect the flexible bag and to protect the dispensing valve from damage, dirt and tampering).

13. Claims 20-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kastamo et al. (3,343,719) hereafter Kastamo, in view of Finley et al. (3,401,043) hereafter Finley, further in view of Erb (US 6,360,925 B2) hereafter Erb.

As per claim 20, the combination of Kastamo and Finley teaches the above-enclosed invention; Kastamo further discloses wherein the beverage or liquid food product is dispensed through a tap fitted to a bag and forming part thereof, the tap having an actuator to actuate flow of the liquid through the tap (Col. 4, line 55 through

Col. 5, line 12; discloses that the bag contains a tap with an actuator to actuate flow of the liquid through the tap);

The combination fails to explicitly disclose where the actuator has a ribbed end to allow fitting of the tap into a bag tap hole having a smooth internal bore.

Erb, which talks about a liquid dispensing tap, teaches a tap which has an actuator which has a ribbed end to allow fitting of the tap into a bag tap hole having a smooth internal bore (Figure 9; teaches an actuator which has a ribbed end which allows fitting into a bag tap hole having a smooth internal bore. Page 7 of the applicants originally filed specification specifically lines 11-17; details the tap and actuator found in the 6,360,925 patent and describes it as being "a suitable tap" from this it would have been obvious that this tap meets all of the requirements of the claimed limitations. Since these taps and actuators were known it would have been obvious to substitute the tap and actuator shown in Kastamo with any tap an actuator and would have been obvious to use the one found in Erb since they share the same goal and use and as such would have expected results of dispensing fluid through the actuator and would have the benefits mentioned in Erb which is guaranteeing the closure by acting on the piston and to guarantee the seal thus ensuring product integrity).

Therefore, from this teaching of Erb, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method and system provided by the combination of Kastamo and Finley, with tap and actuator taught by Erb, to guaranteeing the closure by acting on the piston and to guarantee the seal thus ensuring product integrity as stated in Erb. Further since these taps and

actuators were known it would have been obvious to substitute the tap and actuator shown in Kastamo with any tap an actuator and would have been obvious to use the one found in Erb since they share the same goal and use and as such would have expected results of dispensing fluid through the actuator.

As per claim 21, the combination of Kastamo, Finley and Erb teach the above-enclosed invention; Kastamo further discloses wherein the commercial distributor fills the flexible bags (Col. 4, line 74 through Col. 5, line 12, Col.5 lines 44-51; discloses that the bags are filled and then distributed thus the commercial distributor fills the bags. Col. 3, lines 51-65; discloses that the dairy fills the bags).

14. **Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kastamo et al. (3,343,719) hereafter Kastamo, in view of Finley et al. (3,401,043) hereafter Finley, further in view of Nicolle (WO 99/37575) hereafter Nicolle.**

As per claim 22, the combination of Kastamo and Finley teach the above-enclosed invention; but fails to explicitly disclose wherein said flexible bag is located in a dispenser having capacity for only a single flexible bag at a time.

While it would have been obvious to one having ordinary skill in the art at the time the invention that the dispenser in Kastamo could have the capacity for only a single flexible bag at a time, it is not explicit.

Nicolle, which talks about a fluid dispensing system with collapsible container, teaches wherein the dispenser or container has the capacity for only a single flexible bag at a time (Figures 2, and 7; teach that only a single flexible bag is contained in either dispenser at a time, it would have been obvious to one having ordinary skill in the

art to substitute the dispenser shown in Kastamo for either dispenser shown in Nicolle since they are both used to perform the same task with essentially the same technology, meaning a plastic flexible bag is filled with fluid and loaded into a transport container, transported, unloaded and delivered to the customer. Using either dispenser would have been obvious and have expected results of dispensing the product to the customer. The design or dimensions of the dispenser are merely a design choice and do not effect or alter the method or how it is performed, as such they would have been obvious substitutions and would effectively work in the same manner in which fluid is dispensed from the flexible bag and consumed by the end user).

Therefore, from this teaching of Nicolle, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method and system provided by the combination of Kastamo and Finley, with the use of the dispensers taught by Nicolle, since it would have been obvious to substitute one dispenser shown in Kastamo for the dispensers shown in Nicolle since both are used to perform the same task with essentially the same technology, meaning a plastic flexible bag is filled with fluid and loaded into a transport container, transported, unloaded and delivered to the customer. Using either dispenser would have been obvious and have expected results of dispensing the product to the customer. The design or dimensions of the dispenser are merely a design choice and do not effect or alter the method or how it is performed, as such they would have been obvious substitutions and would effectively work in the same manner in which fluid is dispensed from the flexible bag and consumed by the end user.

Response to Arguments

15. Applicant's arguments filed November 8, 2010 have been fully considered but they are not persuasive.

16. Applicant's arguments with respect to claims 1, 3-15 and 20-26 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

17. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PAUL FISHER whose telephone number is (571)270-5097. The examiner can normally be reached on Mon/Fri [8am/4:30pm].

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Janice Mooneyham can be reached on (571) 272-6805. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/P. R. F./
Examiner, Art Unit 3689
/Dennis Ruhl/
Primary Examiner, Art Unit 3689